



# House of Representatives

General Assembly

**File No. 51**

February Session, 2008

Substitute House Bill No. 5331

*House of Representatives, March 19, 2008*

The Committee on Banks reported through REP. BARRY of the 12th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING LETTERS OF CREDIT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (5) of section 36a-330 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective*  
3 *October 1, 2008*):

4 (5) "Qualified public depository" or "depository" means a bank,  
5 Connecticut credit union, federal credit union or an out-of-state bank  
6 that maintains in this state a branch, as defined in section 36a-410 of  
7 the 2008 supplement to the general statutes, which receives or holds  
8 public deposits and (i) segregates eligible collateral for public deposits  
9 as described in section 36a-333, or (ii) arranges for a letter of credit to  
10 be issued in accordance with section 36a-337, as amended by this act.

11 Sec. 2. Section 36a-334 of the general statutes is repealed and the  
12 following is substituted in lieu thereof (*Effective October 1, 2008*):

13 When the commissioner determines that a loss has occurred, the

14 commissioner shall as soon as possible make payment to the proper  
15 public officers of all public deposits subject to such loss, pursuant to  
16 the following procedure: (1) For the purposes of determining the sums  
17 to be paid, the commissioner or receiver shall, within twenty days after  
18 issuance of a restraining order or taking possession of any qualified  
19 public depository, ascertain the amount of public deposits held by the  
20 depository as disclosed by its records and the amount thereof covered  
21 by deposit insurance and certify the amounts to each public depositor  
22 having public funds on deposit in the depository; (2) within ten days  
23 after receipt of such certification, each such public depositor shall  
24 furnish to the commissioner verified statements of its deposits in the  
25 depository as disclosed by its records plus information concerning any  
26 letters of credit issued to the public depositor pursuant to section 36a-  
27 337, as amended by this act; (3) upon receipt of such certificate and  
28 statements, the commissioner shall ascertain and fix the amount of  
29 such public deposits, net after deduction of any deposit insurance and  
30 any amount received or to be received by the public depositor  
31 pursuant to a letter of credit issued in accordance with section 36a-337,  
32 as amended by this act, and assess the same against the depository in  
33 which the loss occurred; (4) the assessment made by the commissioner  
34 shall be payable on the second business day following demand, and in  
35 case of the failure of the qualified public depository so to pay, the  
36 commissioner shall immediately take possession of the eligible  
37 collateral, if any, segregated by the depository pursuant to sections  
38 36a-330 to 36a-338, inclusive, as amended by this act, and liquidate the  
39 same for the purpose of paying such assessment; (5) upon receipt of  
40 the assessment, the commissioner shall reimburse the public  
41 depositors of the depository in which the loss occurred to the extent of  
42 the depository's net deposit liability to them.

43 Sec. 3. Section 36a-337 of the general statutes is repealed and the  
44 following is substituted in lieu thereof (*Effective October 1, 2008*):

45 (a) All qualified public depositories shall have power to secure  
46 public deposits in accordance with sections 36a-330 to 36a-338,  
47 inclusive, as amended by this act. Except as provided in said sections,

48 no bond or other security shall be required of or given by any qualified  
49 public depository for any public deposit.

50 (b) In lieu of eligible collateral required under section 36a-333, at  
51 least to the extent provided by said section, not more than fifty per  
52 cent of the public deposits held by any qualified public depository may  
53 be secured solely by a private insurance policy purchased by the  
54 depository, the depositor, or any other third party. Any private  
55 insurance policy used to secure public deposits shall be issued by an  
56 insurance company licensed to do business in Connecticut.

57 (c) In lieu of eligible collateral required under section 36a-333,  
58 public deposits held by any qualified public depository may be  
59 secured solely by an irrevocable letter of credit issued by the Federal  
60 Home Loan Bank of Boston, provided such federal home loan bank has  
61 a rating of the highest rating level from a rating service recognized by  
62 the commissioner and provided further the amount of the letter of  
63 credit, as a percentage of the public deposits, is no less than the  
64 amount required by section 36a-333 for eligible collateral for the  
65 particular depository.

66 Sec. 4. Section 36a-338 of the general statutes is repealed and the  
67 following is substituted in lieu thereof (*Effective October 1, 2008*):

68 On each call report date, each qualified public depository shall file  
69 with the commissioner a written report, certified under oath,  
70 indicating its risk-based capital ratio and total capital, as determined in  
71 accordance with applicable federal regulations and regulations  
72 adopted by the commissioner in accordance with chapter 54, the total  
73 amount of public deposits held by it and the amount and nature of the  
74 eligible collateral segregated and designated to secure the public  
75 deposits in accordance with sections 36a-330 to 36a-338, inclusive, as  
76 amended by this act, and the amount and the name of the issuer of any  
77 letter of credit issued pursuant to section 36a-337, as amended by this  
78 act. Each depository shall furnish a copy of its most recent report to  
79 any public depositor having public funds on deposit in the depository,  
80 upon request of the depositor. Any public depository which refuses or

81 neglects to furnish any report or give any information as required by  
82 this section shall no longer be a qualified public depository and shall  
83 be excluded from the right to receive public deposits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	36a-330(5)
Sec. 2	<i>October 1, 2008</i>	36a-334
Sec. 3	<i>October 1, 2008</i>	36a-337
Sec. 4	<i>October 1, 2008</i>	36a-338

Section 1	<i>October 1, 2008</i>	36a-330(5)
Sec. 2	<i>October 1, 2008</i>	36a-334
Sec. 3	<i>October 1, 2008</i>	36a-337
Sec. 4	<i>October 1, 2008</i>	36a-338

**BA**        *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sHB 5331*****AN ACT CONCERNING LETTERS OF CREDIT.*****SUMMARY:**

The bill permits the use of Federal Home Loan Bank of Boston letters of credit to secure public deposits in Connecticut. By law, qualified public depositories have the power to secure public deposits. To do this, each qualified public depository must keep at all times, segregated from its other assets, eligible collateral in an amount equal to a certain percentage of public deposits held by the depository. In lieu of the eligible collateral required, a certain percentage of deposits may be secured solely by a private insurance policy.

The bill allows qualified public depositories to, in lieu of the eligible collateral requirement, secure their deposits solely with an irrevocable letter of credit issued by the Federal Home Loan Bank of Boston if certain conditions are met. Specifically, (1) the federal home loan bank must have the highest rating available from a rating service the banking commissioner recognizes and (2) the amount of the letter as a percentage of public deposits, must be not less than the amount required for eligible collateral for a particular depository.

To accomplish this change, the bill changes the definition of "qualified public depository" to include a bank, out-of-state bank that maintains a state branch, or Connecticut or federal credit union that holds public deposits and either (1) segregates eligible collateral or (2) arranges for a letter of credit to be issued.

EFFECTIVE DATE: October 1, 2008

**CONFORMING CHANGES*****Procedure Upon Loss***

By law, a “loss” is (1) the issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or (2) the appointment of a receiver for a qualified public depository. When the banking commissioner determines that a loss has occurred, he must make a payment to the proper public officers of all public deposits subject to the loss. In determining how much to pay, he must determine the amount of public deposits by looking at the depositories’ records and the amount that is covered by insurance and certify the amounts to each depositor. When the depositor receives the certification, the depositor has to provide verified statements of its deposits within 10 days.

The bill requires the depositors to also provide information about any letters of credit issued to the depositor under the bill. The commissioner must then determine and fix the amount of the deposits minus any deposit insurance. The bill also requires the deduction of any current or future amounts received by the depositor pursuant to a letter of credit issued under the bill’s provisions.

### ***Report***

The bill requires a qualified public depository to include in the certified written report that it is required to file periodically with the banking commissioner, the amount and name of the issuer of any letter of credit issued under the bill’s provisions, along with other required information.

## **BACKGROUND**

### ***Eligible Collateral Requirements***

Currently, most institutions must hold an amount equal to between 10% and 120% of their public deposits, depending on their risk-based capital ratio. A qualified public depository that is (1) an uninsured bank must maintain, apart from its other assets, an amount equal to 120% of all public deposits it holds and (2) subject to a cease and desist order or a stipulation and agreement or letter of understanding and agreement with a bank or credit union supervisor, must maintain, apart from its other assets, 120% of all public deposits it holds, except

that the depository and the public depositor can agree on a greater percentage.

***Letter of Credit***

A letter of credit is a document issued by a bank guaranteeing the payment of a customer's drafts up to a stated amount. An irrevocable letter cannot be canceled.

***Federal Home Loan Bank of Boston***

In 1932, Congress established the Federal Home Loan Bank System. The Federal Home Loan Banks are government-sponsored enterprises, federally chartered but privately capitalized and independently managed. The Federal Home Loan Bank of Boston is one of 12 regional Federal Home Loan Banks established by the Federal Home Loan Bank Act. It serves the six New England states. Financial institutions throughout New England are the Bank's members and customers.

**COMMITTEE ACTION**

Banks Committee

Joint Favorable Substitute

Yea 17 Nay 0 (03/04/2008)